

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:20-cr-00264-1
	§	
	§	
JOSE ABRAHAM NICANOR (01)	§	JUDGE: Hon. Kenneth Hoyt

DEFENDANT JOSE ABRAHAM NICANOR'S OBJECTIONS
TO PRESENTENCE INVESTIGATION REPORT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Jose Abraham Nicanor, Defendant (01) in the above styled and numbered cause, and files the following objections to the Presentence Investigation Report (PSI), and would show the Court as follows:

I. Objections to PSI.

A. Defendant objections to the following PSI paragraphs, provisions, and findings, based on the US Constitution Second Amendment (firearms and ammunition) and **N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen**, 142 S. Ct. 2111 (2022). The Government must now justify the criminal statutes (and regulation) relevant in this case – “the Government bears the burden of “justify[ing] its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation.” Bruen at 2130.

B. Defendant objections to the following PSI paragraphs, provisions, and findings, based on the US Constitution Fifth Amendment Due Process provision, in that the Government and prosecution did not present sufficient evidence or proof of the following findings at trial or any hearing.

C. Defendant objections to the following PSI paragraphs, provisions, and findings, based on the US Constitution Sixth Amendment, in that the Government and prosecution did not present sufficient evidence or proof of the following findings at trial or any hearing, nor was defendant afforded an opportunity to confront the witnesses or evidence used to substantiate the following finds.

PARAGRAPHS:

48. - That defendant is criminally accountable for a. possessing the listed firearms and ammunition, b. being a straw buyer, c. of 94 firearms, d. that defendant was an organizer “of this firearm ring,” e. that defendant transferred the firearms to Mexico, f. with obliterated serial numbers.

54. That defendant is criminally accountable for possessing the listed firearms and ammunition. 18 U.S.C §922(g)(1) and USSG §2k2.1.

55. That defendant is criminally accountable for 94 firearms. USSG §2k2.1(b)(1)(C)

56. That defendant is criminally accountable for an altered or obliterated serial number. USSG §2k2.1(b)(4)(B).

57. That defendant is criminally accountable for trafficking firearms. USSG §2k2.1(b)(5).

58. That defendant is criminally accountable for using, possessing, or transferring the listed firearms with knowledge, intent, or reason to believe that it would be used or possessed in connection with another felony. The firearms were transferred to cartels in Mexico. USSG §2k2.1(6)(B).

100. The cumulative effect of the foregoing (in addition to other Sentencing Guideline calculations) is a total offense level of 40 points and a criminal history category of III, with a

punishment range of 350 months to life. Sentencing Table, USSG, Chapter 5, Part A.

PRAYER

FOR THESE REASONS, Defendant prays that the Court conduct an oral hearing and strike the foregoing provisions and findings, and grant all relief requested herein. Defendant prays that 18 U.S.C. §922(g)(1), and (9) are ruled unconstitutional under Bruen and its progeny. Defendant prays for any other relief to which he may be entitled.

Respectfully submitted,

/s/ Lance Nguyen
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading has been served upon all counsel of record hereto via CM/ECF electronic filing, on October 02, 2023.

/s/ Lance Nguyen
Lance Nguyen